

REMARKS

Claims 1-39 are pending in the present application. Claims 1, 14, 18, 27 and 36 have been amended herewith. Reconsideration of the claims is respectfully requested.

Amendments were made to the specification to correct errors and to clarify the specification. No new matter has been added by any of the amendments to the specification.

Applicants would also like to thank the Examiner for taking the time to conduct a telephonic interview with Applicants' representative on November 11, 2004. While no agreement was reached, Applicants' representative described key aspects of the present invention not taught or suggested in the cited references, including those recited in Claims 1, 9, 14 and 17.

I. Objection to Drawings

The Examiner objected to the drawings under 37 CFR 1.83(a) as failing to show "gatekeeper 152" as described in the specification. Applicants have amended the specification to remove reference to reference number 152.

The Examiner objected to the drawings under 37 CFR 1.84(p)(5) as reference character "R4" is not mentioned in the specification. Applicants have amended the specification to include a reference to reference number R4.

Therefore, the objection of the drawings has been overcome.

II. Objection to Specification

The Examiner objected to the specification as failing to provide proper antecedent basis for claimed subject matter, and in particular to "unused extra bandwidth" recited in Claim 8. Applicants urge that such usage is described by the present specification at page 12, lines 8-15.

Therefore, the objection of the specification has been overcome.

III. 35 U.S.C. § 103, Obviousness

A. The Examiner rejected Claims 1-2, 4, 8-9, 18-19, 21, 24, 27-28 and 30-31 under 35 U.S.C. § 103 as being unpatentable over Teeple et al (U.S. Patent Application No. 09/893,323) in view of Connery et al (U.S. Patent No. 6,311,276). This rejection is respectfully traversed.

With respect to Claim 1, Applicants have amended such claim to clarify the nature of the command pushed to the wireless device, and in particular such claim has been amended to clarify that the command is pushed over the wireless network to the wireless device. The cited Teeple reference, as acknowledged by the Examiner, fails to teach or suggest pushing a command to a wireless device to backup data. The Examiner, however, cites Connery as teaching a method wherein a CPU receives Wake On LAN packets to wake up the system in order to perform network management services such as backups of data. Applicants urge that Claim 1, as amended, is different (and incompatible) from the teachings of Connery. Connery *requires a wired connection* such that the Wake On LAN packets can be received even when in a low-power, green mode of operation (Connery Col. 5, lines 15-18). There is no equivalent Wake On LAN functionality using a *wireless* connection, and thus the amendment to Claim 1 is shown to be different from, and incompatible with, the teachings of the cited Connery reference.

In particular, Claim 1 expressly requires that the request to backup data is pushed over a wireless network to the wireless device. Wired and wireless connections are substantially different, with each using different transport protocols, data formats, transmission media, data signaling techniques, etc., and a teaching of use of one (a wired network) to achieve a particular functionality does not teach or otherwise suggest the use of the other (a wireless network) to achieve other similar functionality. As another example, many Linux systems, even today, do not provide support for wireless network adapters (and in fact cause a system to hang during bootup when one is installed in a computer), yet work just fine when a wired Ethernet card is connected to the computer bus. This is yet another example showing that wired and wireless networks are not plug-compatible with one another, and a teaching of one does not teach or suggest the use of the other to achieve a particular functionality.

Indeed, this distinction between wired and wireless networks and differences related thereto are expressly acknowledged in the cited Teeple reference itself. Per Teeple at paragraph 0141, he states:

The mobile Internet is a different environment than the Internet accessed by fixed wireline computers. *Mobile Internet access is not simply an extension of the wireline-accessed Internet today.* Mobile access defines a different paradigm for Internet usage that requires new classes of applications and services that are specifically developed for this new type of use. The promise of the mobile Internet is that an application can be served to users such that the network and wireless device account for certain device limitations and differences among those devices. Also, the behavior of mobile users is different from the behavior of traditional desktop Internet users and these differences must be considered when service providers offer the mobile Internet to subscribers. (emphasis added by Applicants)

Therefore, the amendment to Claim 1 has overcome the obvious rejection of such claim.

Applicants initially traverse the rejection of Claim 2, 4 and 8 for reasons given above regarding Claim 1 (of which Claims 2, 4, and 8 depend upon).

Further with respect to Claim 4, Applicants show that none of the cited references teach the claimed feature of "wherein the connection is established in response to receipt of a request to backup data from the wireless device". In rejecting Claim 4, the Examiner states that this feature is taught by Teeple Paragraph 0018. Applicants show that there, Teeple states:

[0018] A method and system are provided for presenting data in multiple formats in a subscriber network. A request is received from a small screen device for data over a first network using a first communication protocol. The request is translated from the first communication protocol to a second communication protocol. The request is then forwarded to a sever having the requested data using the second communication protocol. The requested data is received from the sever using the second communication protocol, wherein the requested data is in a first presentation format. The requested data is reformatted in a second presentation format different from the first presentation format.

As can be seen, this passage states that a request is received from a small screen device for data, and such requested data is provided by the server. This passage has nothing to do with backup data, or that a connection is established *in response to* receipt of a request to backup data *from the wireless device* (as the wireless device makes no such request). Thus, it is shown that there is at least one missing claimed feature not taught or suggested by the cited references, and Claim 4 is further shown to not be obvious in view of the cited references.

Further with respect to Claim 8, Applicants urge that none of the cited references teach or suggest the claimed feature of "wherein the connection between the server and the wireless device uses unused extra bandwidth". In rejecting Claim 8, the Examiner states that such feature is taught by Teeple paragraph 0010. Applicants show that there, Teeple states:

[0010] Small screen devices typically have small displays, for example 6 lines by 20 characters. The small displays limit the amount of information that can be presented at one time. In addition, small screen devices have limited bandwidth, generally less than 9600 baud. Transmissions must be kept to a minimum number of characters. The data buffer size of the small screen devices is typically limited to some small multiple of the number of characters that appear on the screen. Thus, most Web documents are too large to be downloaded to small screen devices.

As can be seen, this passage describes that small screen devices have limited bandwidth and that transmission should be kept to a minimum number of characters. Because of this lack of bandwidth, there is no unused extra bandwidth for use in data backup. At best, the cited reference expressly teaches away from this claimed feature as it expressly states it has limited, and thus no-excess, bandwidth capacity. Thus, Claim 8 is further shown to not be obvious in view of the cited references.

With respect to Claim 9, none of the cited references teach or suggest the claimed feature of "sending the *translated request* to the wireless client over a wireless network" (emphasis added by Applicants). The Examiner states that Teeple teaches "sending the translated request to wireless client over a wireless network" at paragraph 0141. Applicants show that there, Teeple states:

[0141] Internet access via wireline connected computers is becoming more and more ubiquitous everyday. The challenge is to bring this Internet access to mobile subscribers via wireless devices that is user-friendly and provides the applications, content and messaging that they desire. The market for these advanced mobile services is no longer limited to high-end business users; rather, as the Internet has brought more applications and services to the general public, pedestrian users desire mobile access. The market has changed and it is anticipated that someday all mobile telephony subscribers will desire full access to the Internet and the services it can provide. The traditional wireless business model of starting with business customers and eventually working down to the mass-market is no longer valid. Today, all services must start with the mass market. "Walled gardens" of content will not survive and successful mobile Internet access requires much richer messaging applications and content from any source. The mobile Internet is a different environment than the Internet accessed by fixed wireline computers. Mobile Internet access is not simply an extension of the wireline-accessed Internet today. Mobile access defines a different paradigm for Internet usage that requires new classes of applications and services that are specifically developed for this new type of use. The promise of the mobile Internet is that an application can be served to users such that the network and wireless device account for certain device limitations and differences among those devices. Also, the behavior of mobile users is different from the behavior of traditional desktop Internet users and these differences must be considered when service providers offer the mobile Internet to subscribers. Many of these differences relate to subscriber and device preferences, which directly relates to user-friendliness, ease of use and the ability to fulfill the expectations of subscribers. Small wireless devices, with a variety of small screen sizes and capabilities, along with mobility, dramatically change subscribers' usage patterns.

This passage makes no mention whatsoever of any detailed operational steps, and in particular makes no mention of any step of sending a request to a wireless device, and still more particularly makes no mention of sending a translated request to a wireless device, as alleged by the Examiner. Thus, it is shown that contrary to the Examiner's assertion, this cited Teeple passage does not teach or suggest the claimed step of "sending the translated *request* to the wireless client over a wireless network". Thus, the Examiner has failed to establish a prima facie showing of obviousness as all claimed features are not taught or suggested by the cited references¹.

¹ To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03. See also, *In re Royka*, 490 F.2d 580 (C.C.P.A. 1974).

This claimed feature advantageously provides for translation of the data backup request into a form suitable for reception by the wireless device, which may not be compatible with the original command issued from the server itself, as described in Applicants' Specification, page 16, lines 11-25.

Still further with respect to Claim 9, Applicants urge that there would have been no motivation to modify the Teeple teachings in accordance with this missing claimed step, as Teeple's server does not initiate or send any type of *request*, and hence there would be no reason to modify Teeple's teachings to translate such (missing) request or to send a translated request (such translation being done by a proxy server) to a wireless device. Rather, Teeple teaches that the small screen device (and not the Teeple server) initiates a request for data (Teeple paragraph 0018). This is substantially just the opposite of what is recited by Claim 9. Thus, Claim 9 is still further shown to not be obvious in view of the cited references.

With respect to Claims 18, 19 and 21, Applicants traverse for similar reasons to those given above regarding Claim 1.

Further with respect to Claim 21, Applicants traverse for similar reasons to the further reasons given above with respect to Claim 4.

With respect to Claim 24, Applicants traverse for similar reasons to those given above with respect to Claim 9.

With respect to Claims 27, 28 and 30, Applicants traverse for similar reasons to those given above regarding Claim 1.

Further with respect to Claim 30, Applicants traverse for similar reasons to the further reasons given above with respect to Claim 4.

With respect to Claim 31, Applicants traverse for similar reasons to those given above with respect to Claim 9.

Therefore, the rejection of Claims 1-2, 4, 8-9, 18-19, 21, 24, 27-28 and 30-31 under 35 U.S.C. § 103 has been overcome.

B. The Examiner rejected Claims 3, 7, 20 and 29 under 35 U.S.C. § 103 as being unpatentable over Teeple et al (U.S. Patent Application No. 09/893,323) in view of

Connery et al (U.S. Patent No. 6,311,276) and further in view of Mousseau et al (U.S. Patent Application No. 09/781,989). This rejection is respectfully traversed.

With respect to Claims 3 and 7, Applicants traverse for similar reasons to those given above with respect to Claim 1 (of which Claims 3 and 7 depend upon), and show that none of the cited references teach or suggest the claimed feature of "pushing, over the wireless network, a request to backup data to the wireless device". Thus, as all claimed features are not taught or suggested by any of the cited references, Applicants show that Claims 3 and 7 are not obvious in view of the cited references.

Applicants traverse the rejection of Claim 20 for reasons given above with respect to Claim 18 (of which Claim 20 depends upon).

Applicants traverse the rejection of Claim 29 for reasons given above with respect to Claim 27 (of which Claim 29 depends upon).

Therefore, the rejection of Claims 3, 7, 20 and 29 under 35 U.S.C. § 103 has been overcome.

C. The Examiner rejected Claims 5, 6, 10-13, 22-23 and 32-35 under 35 U.S.C. § 103 as being unpatentable over Teeple et al (U.S. Patent Application No. 09/893,323) in view of Connery et al (U.S. Patent No. 6,311,276) and further in view of Leppinen (U.S. Patent No. 6,735,186). This rejection is respectfully traversed.

With respect to Claims 5 and 6, Applicants traverse for similar reasons to those given above with respect to Claim 1 (of which Claims 5 and 6 depend upon), and show that none of the cited references teach or suggest the claimed feature of "pushing, over the wireless network, a request to backup data to the wireless device". Thus, as all claimed features are not taught or suggested by any of the cited references, Applicants show that Claims 3 and 7 are not obvious in view of the cited references.

Further with respect to Claim 5 (and similarly for dependent Claim 6), Applicants urge that none of the cited references teach or suggest the claimed feature of "wherein the step of pushing the request comprises sending a textual based service load to a proxy server, wherein the proxy server is configured to translate textual based service loads to binary based service loads and send the translated service load to the wireless device". In rejecting Claim 5, the Examiner acknowledges that Teeple fails to teach this claimed

feature, but states that this is taught by Leppinen at column 3, lines 15-30. Applicants show that there, Leppinen states:

The gateway 16, connected to the wide area network and the wireless communication network, functions as a go-between for the web server 14 and the mobile station 12. For example, it encodes the requested resources (e.g., a HyperText Markup Language document) from the web server 14 from one format into another format (e.g., Wireless Markup Language (WML)) that is tailored for the wireless network. The gateway 16 also translates requests from the WAP protocol stack (including, for example, Wireless Session Protocol) to the World Wide Web (WWW) protocol stack (including, for example, HTTP) and vice versa. These gateway functions may reside in a stand-alone server or distributed among several servers (including a proxy or origin server). Thus, for example, a WAP gateway server may transmit or tunnel packets of data to a WAP proxy for encryption and/or decryption.

As can be seen, this passage describes a gateway which operates as a go-between for a web server and a mobile station, including encoding of requested resources from the web server into a format that is tailored for a wireless network. In contrast, Claim 5 is specifically directed to details of how *the request* to backup data is pushed *to* the wireless device. The cited passage does not teach any type of pushing of any request to a wireless device. Rather, the data from the server to the wireless device is just that, data that is responsive to a request *from* the wireless device (Leppinen column 2, lines 13-15, column 2, lines 25-27). Thus, it is shown that the cited Leppinen reference does not teach or suggest the claimed feature of "wherein the step of pushing the request comprises", as specifically recited in Claim 5.

Further with respect to Claim 6, Applicants urge that none of the cited references teach or suggest the claimed feature of "wherein the service load provides a uniform resource identifier for an application that the wireless device may retrieve to transmit the data to the server". As can be seen, this claim recites a uniform resource identifier for an application that the wireless device may retrieve to transmit data to a server. In rejecting Claim 6, the Examiner acknowledges that Teeple fails to teach this claimed feature, but states that this is taught by Leppinen at column 3, lines 15-30 (i.e. the identical passage as was cited in rejecting Claim 5). Such passage has been reproduced above, in the

discussion of the Claim 5 rejection. There is no mention of any type of uniform resource identifier in this cited passage, which rather describes specifics of data translation and encoding. In other words, this cited passage makes no mention of any uniform resource identifier being a part of the service load, or that such uniform resource identifier is for an application that the wireless device *may retrieve* to transmit data to the server. Thus, Claim 6 is further shown to not be obvious in view of the cited references, as there are further features not taught or suggested by the cited references.

With respect to Claim 10-13, Applicants initially traverse for reasons given above regarding Claim 9 (of which Claims 10-13 depend upon), and urge that there would have been no reason to modify Teeple's teachings to send a translated request (originated by the server) to a wireless device.

Still further with respect to Claim 10 (and similarly for dependent Claims 12 and 13), Applicants traverse for similar reasons to those further reasons given above with respect to Claim 6.

Applicants traverse the rejection of Claims 22 and 23 for similar reasons to those given above regarding Claim 5.

Applicants further traverse the rejection of Claim 23 for further reasons given above with respect to Claim 6.

With respect to Claim 32-35, Applicants initially traverse for reasons given above regarding Claims 10-13.

Still further with respect to Claim 32 (and similarly for dependent Claims 34 and 35), Applicants traverse for similar reasons to those further reasons given above with respect to Claim 6.

Therefore, the rejection of Claims 5, 6, 10-13, 22-23 and 32-35 under 35 U.S.C. § 103 has been overcome.

D. The Examiner rejected Claims 14-17, 25-26, 36 and 39 under 35 U.S.C. § 103 as being unpatentable over Mousseau et al (U.S. Patent Application No. 09/781,989) in view of Connery et al (U.S. Patent No. 6,311,276). This rejection is respectfully traversed.

Claim 14 is directed to particular aspects of a method for backing up data using a wireless client and wireless network, and in particular recites steps of "responsive to

receipt of a push from a backup server via a wireless network to backup data, retrieving, without user intervention, the data to be backed up from storage within a wireless client” and “transmitting, without user intervention, the data to be backed up to the backup server via the wireless network utilizing a wireless protocol”. As can be seen, this claim is directed to automated retrieval of data to be backed up, where such data is retrieved *from* storage within the wireless client. In rejecting Claim 14, the Examiner states that such retrieval is taught by Mousseau at paragraph 0003. Applicants show that there, Mousseau states:

[0003] Instead of warehousing (or storing) the user's data items at the host system and then "synchronizing" the mobile data communication device to data items stored at the host system when the mobile device requests that such items of information be communicated to it, the present invention employs a "push" paradigm *that continuously packages and retransmits the user-selected items of information to the mobile data communication device* in response to a triggering event detected at the host system. Wireless mobile data communications devices, especially those that can return a confirmation signal to the host that the pushed data has been received are especially well suited for this type of push paradigm.

At best, this passage teaches exactly the opposite of what is claimed – this passage teaches the transmission of items *to* a mobile communication device, whereas Claim 14 is specifically directed to retrieving data (to be backed up) *from* storage within a wireless client. Thus, Claim 14 is shown to not be obvious in view of the cited references as there are missing claimed elements/features not taught or suggested by the cited references.

Still further with respect to Claim 14, Applicants show that none of the cited references teach or suggest that the above described retrieval of data from storage within the wireless device is “responsive to receipt of a push from a backup server via a wireless network to backup data”. The Examiner states that such ‘responsive’ feature is taught by the cited Connery. Applicants show error, as the Connery system is directed to a Wake on LAN feature which requires a wired connection to function. Connery would never wake up responsive to wireless packets, and thus it could not perform any step of “responsive to receipt of a push from a backup server *via a wireless network* to backup data”, as it is not responsive to any co-action with a wireless network (as previously

described with respect to Claim 1). Thus, Claim 14 is still further shown to have been erroneously rejected by the Examiner.

Applicants traverse the rejection of Claims 15 and 16 for reasons given above regarding Claim 14 (of which Claims 15 and 16 depend upon).

Further with respect to Claim 16, such claim builds upon Claim 14 by including retrieval of backed up data using a wireless network, and includes steps of "transmitting a request to the backup server via the wireless network to retrieve backed up data", "receiving the backed up data from the backup server via the wireless network", and "storing the backed up data on the wireless client". The Examiner states that all three of these steps are taught by the cited Mousseau reference in paragraph 0003. Paragraph 0003 of Mousseau teaches a *continuous* packaging and retransmission of data, and thus does not teach or suggest transmitting a *request to retrieve* backed up data. In addition, since the data is continuously transmitted to the mobile communication device, there would be no reason for such mobile device to request to retrieve backed up data, and thus no motivation to modify the teachings therein in accordance with the claimed invention. Thus, Claim 16 is still further shown to not be obvious in view of the cited references.

With respect to Claim 17, Applicants urge that none of the cited references teach or suggest the claimed steps of "receiving a request for backed up data from a wireless client connected via a wireless network", "retrieving the backed up data corresponding to the wireless client", and "transmitting the backed up data to the wireless client via the wireless network". As can be seen, this claim is directed to a technique for *retrieval of backed up data*. In rejecting Claim 17, the Examiner applies the same reasoning used in rejecting Claim 14. Applicants show error, in that Claim 14 is directed to a technique for *backing up data*. In contrast, Claim 17 is directed to a technique for reloading backed up data. These two techniques are substantially different and accomplish different purposes, and thus the Examiner, in relying upon the same reasons in rejecting Claim 17 as those given in rejecting Claim 14, has failed to establish a prima facie showing of obviousness with respect to Claim 17.

With respect to Claim 25, Applicants traverse for similar reasons to those given above with respect to Claim 14.

With respect to Claim 26, Applicants traverse for similar reasons to those given above with respect to Claim 17.

With respect to Claim 36, Applicants traverse for similar reasons to those given above with respect to Claim 14.

With respect to Claim 39, Applicants traverse for similar reasons to those given above with respect to Claim 17.

Therefore, the rejection of Claims 14-17, 25-26, 36 and 39 under 35 U.S.C. § 103 has been overcome.

E. The Examiner rejected Claims 37 and 38 under 35 U.S.C. § 103 as being unpatentable over Mousseau et al (U.S. Patent Application No. 09/781,989) in view of Connery et al (U.S. Patent No. 6,311,276) and further in view of Teeple et al (U.S. Patent Application No. 09/893,323). This rejection is respectfully traversed.

Applicants traverse the rejection of Claims 37 and 38 for reasons given above with respect to Claim 36 (of which Claims 37 and 38 depend upon), and urge that none of the cited references teach or suggest the claimed feature of "a data retriever which, responsive to receipt of a push from a backup server via a wireless network to backup data, retrieves, without user intervention, the data to be backed up from storage within a client". Therefore, Claims 37 and 38 are shown to not be obvious in view of the cited references as there are missing claimed features not taught or suggested by the cited references.

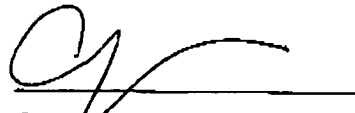
Therefore, the rejection of Claims 37 and 38 under 35 U.S.C. § 103 has been overcome.

IV. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: 11/16/04

Respectfully submitted,



Cathrine K. Kinslow
Reg. No. 51,886
Wayne P. Bailey
Reg. No. 34,289
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorneys for Applicants